

# Exhibit H

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## APPEARANCES:

Neal A. Sanders, Esquire  
Law Offices of Neal A. Sanders  
1924 North Main Street Extension  
Butler, PA 16001  
Appearing on behalf of the Complainant  
Carla J. Hughey, Esquire  
Fort McCoy  
JA (AFRC-FM-JA)  
100 E. Headquarters Road  
Fort McCoy, WI 54656-5263  
Appearing on behalf of Respondent

## PRESENT:

Tom Karns, observer

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## P R O C E E D I N G S

MRS. JENKINS: Let the record begin. Let the record begin. It is 8:53 on December 3rd, 2003. This is a Fact-Finding Conference being held at the 99th Regional Support Command located in Coraopolis, Pennsylvania.

This Fact-Finding Conference is to investigate the formal discrimination complaint of Miss Evelyn McKinley. The agency docket number is ARMCCOY03MAR0027. Again, I'm Sharon Jenkins with the Department of Defense, Civilian Personnel Management Service, Office of Complaint Investigations.

This proceeding is an administrative investigation conducted in accordance with Section 1614 of the Title 29 of the Code of Federal Regulations.

Its purpose is to establish a record of evidence relevant to the issues that the agency has accepted for this investigation and to do so in a manner that affords both parties a fair opportunity to present their facts and position in the record.

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## I N D E X P A G E

## EXAMINATION:

## WITNESSES:

Evelyn McKinley	14, 74, 83
by Mrs. Jenkins	56, 82, 84
by Mr. Sanders	77
by Mrs. Hughey	
Jimmy Edward Keener	85, 118
by Mrs. Jenkins	107, 120
by Mr. Sanders	120
by Mrs. Hughey	
Larry Flynn	123, 147
by Mrs. Jenkins	138, 147
by Mr. Sanders	145
Mr. Hughey	
Donald Eugene Wetzel	150
by Mrs. Jenkins	162, 167
by Mr. Sanders	166
by Mrs. Hughey	

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Present at this time we have the complainant, Miss Evelyn McKinley, her representative, Mr. Neal Sanders. Mr. Tom Karns is an observer here with Miss McKinley, and the agency representative is Miss Carla Hughey.

Because the complainant's allegations are made against the agency, Miss Hughey is here to represent the agency and not any specific management official.

Our court reporter is Donna McMullen who will record the verbatim testimony of this proceeding.

The parties are advised that the information provided here is not to be considered confidential and that it may be placed in the file if shown to the interested parties.

At this time, Miss McKinley, I'd like to swear you in. Do you have any objection to swearing under oath?

MISS MCKINLEY: No.

MRS. JENKINS: Raise your right hand.

EVELYN MCKINLEY, the Complainant herein, having been first duly sworn, testified as follows:

MRS. JENKINS: I'm using a script format to

2 (Pages 2 to 5)

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1 A No. If you got back injuries I know you're  
2 limited.  
3 Q And I think you indicated that you had a back  
4 injury, correct?  
5 A Yes.  
6 Q Did your back injury limit the performance of your  
7 duties?  
8 A Yes.  
9 Q How?  
10 A Well, when I first come to work for the government  
11 I was a mechanic.  
12 Q And when was that?  
13 A That was in 1972.  
14 Q Okay.  
15 A And then in November of '94 I was in a bad accident  
16 that involved a government vehicle, and I was  
17 thrown out of the vehicle. My right side of my  
18 face was all crushed (indicating). My thyroid  
19 crushed. I had a disk taken from my neck, bone  
20 from my hip put in my neck, nerve block down the  
21 right side of my leg. I was off work for a year  
22 and half.  
23 Q were you employed -- where were you employed at that

1 A Umm-hmm.  
2 Q When you returned back to work were you put on light  
3 duty?  
4 A When I come back to work they offered me a job in  
5 the -- as a supply tech and because I didn't want  
6 disability I fought with them for a while and told  
7 them I didn't want it. They called me and told me  
8 they had a job opening as a supply tech in New  
9 Castle, asked me if I'd be willing to take that.  
10 And I told them yes, I would. Like I said, I  
11 didn't want disability.  
12 Q Do you recall who offered you that supply tech  
13 position?  
14 A Well, it was -- Mr. Morell called me at home and  
15 told me that -- I don't know. Him and the RSC and  
16 whoever was authorized to do that had said the job  
17 opening was there if I wanted it.  
18 Q Did you have to apply for it? Was it a competitive  
19 position? Do you recall applying for it?  
20 A They asked me if I was interested in taking the  
21 job, and I told them, "yes."  
22 Q And that was supply clerk 5?  
23 A Yes.

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1 time?  
2 A At AMSA 110 in New Castle, Pennsylvania.  
3 Q And when did you return back to work from that  
4 injury?  
5 A In 1996.  
6 Q Where were you working in '96?  
7 A In New Castle.  
8 Q In New Castle?  
9 A Yes.  
10 Q And that's not -- is that connected at all with --  
11 A Yeah, it's all the government. It's all the same  
12 thing.  
13 Q Is it part of the organization here?  
14 A It's all part of the 99th.  
15 Q So you returned back to work in '96?  
16 A Yes.  
17 Q And at that time who was your supervisor?  
18 A Albert Morell.  
19 Q He was your first line?  
20 A Pardon me?  
21 Q He was your first line supervisor?  
22 A Yes.  
23 Q In '96?

1 Q And what was your grade prior to that?  
2 A As a GS9 or I'm sorry, WG9.  
3 Q WG9?  
4 A Yes.  
5 Q So you went from a WG9 to a GS5?  
6 A Yes.  
7 Q When you said that they were trying to get you to  
8 take disability?  
9 A Well, they told me I could take disability if I  
10 wanted. I didn't want disability.  
11 Q Who told you you could take disability?  
12 A Mr. Morell.  
13 Q Do you mean disability retirement?  
14 A Yes. And I didn't want to go on it. I don't want  
15 to look over my shoulder all the time to see if  
16 somebody's watching me do something. I'm just not  
17 that way.  
18 Q So you said you didn't want to take disability  
19 retirement. Mr. Morell called you at home and  
20 offered you the supply tech position?  
21 A Umm-hmm.  
22 MR. SANDERS: Was that a yes?  
23 THE WITNESS: Yes.

40 (Pages 154 to 157)